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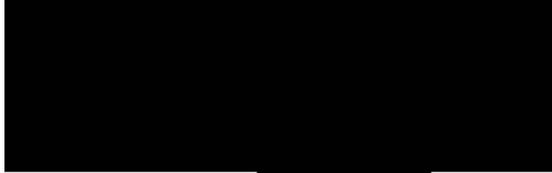
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
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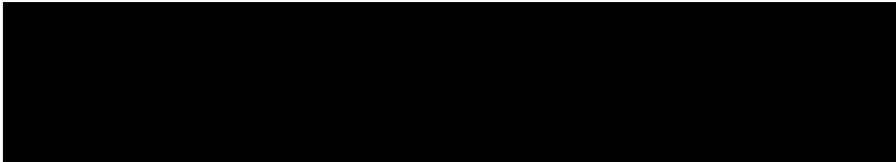


FILE: [Redacted] Office: WASHINGTON DISTRICT Date: **JUN 10 2008**

IN RE: Applicant: [Redacted]

APPLICATION: Application for Status as Permanent Resident Pursuant to Section 13 of the Act of September 11, 1957, 8 U.S.C. § 1255b.

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Washington, D.C. and was appealed to the Administrative Appeals Office (AAO). The appeal was dismissed. The matter is now before the AAO on a motion to reopen. The motion will be granted. The prior decision will be affirmed.

The applicant is a native and citizen of Peru who is seeking to adjust her status to that of lawful permanent resident under section 13 of the Act of 1957 ("Section 13"), Pub. L. No. 85-316, 71 Stat. 642, as modified, 95 Stat. 1611, 8 U.S.C. § 1255b, as an alien whose family member performed diplomatic or semi-diplomatic duties under section 101(a)(15)(A)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(A)(i).

The district director denied the Application to Register Permanent Residence or Adjust Status (Form I-485) of the applicant's father after determining that at the time he applied for adjustment under Section 13, the applicant's father was still maintaining diplomatic status. *Decision of District Director*, dated May 18, 1999. The AAO concurred with the determination made by the district director and dismissed the applicant's spouse's appeal. *Decision of the AAO*, dated April 8, 2003. The field office director, and the AAO, denied the applicant's adjustment application on the basis of her father's ineligibility for benefits under Section 13.

In a separate decision, the AAO has granted the applicant's father's motion to reopen but has affirmed its prior decision dismissing the appeal of the applicant's father on the ground that at the time he applied for adjustment under Section 13, he was still maintaining diplomatic status. As the applicant's eligibility for adjustment under Section 13 derives from the eligibility of her father, the applicant therefore is also ineligible for adjustment of status.

For the reasons discussed above, the AAO finds that the applicant is not eligible for adjustment under Section 13. Pursuant to section 291 of the Act, 8 U.S.C. 1361, the burden of proof is upon the applicant to establish that she is eligible for adjustment of status. The applicant has failed to meet that burden. Accordingly, the application may not be approved.

ORDER: The prior decisions to deny the application are affirmed.